

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

GLADYS MARIA HOLT,
Plaintiff,

V.

BEAUMONT POLICE DEPT., et al,
Defendant.

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CASE NO. 1:04-CV-147

MEMORANDUM ORDER
ADOPTING REPORT AND RECOMMENDATION

Pursuant to 28 U.S.C. § 636(b)(1)(A) and the Local Rules for the United States District Court, Eastern District of Texas, Appendix B, the Court referred this matter to a United States Magistrate for consideration of pretrial matters and proceedings. On September 6, 2005, Judge Giblin filed his *Report and Recommendation* on the dismissal of this civil action [Clerk's doc. #33]. Judge Giblin recommended that the Court grant the Defendant Beaumont Police Department's *Motion to Dismiss for Failure to State a Claim*. He further recommended that the Court dismiss the remainder of Plaintiff's claims for failure to prosecute and deny Plaintiff's *Motion to File Default Judgment*. To date, the plaintiff has not objected to the *Report and Recommendation*. However, in the interim, she has filed several motions, including a motion for the recusal of Judge Giblin, two motions to compel, and a request for an extension of time to file objections [Clerk's doc. #35, 37].

In her motions, Ms. Holt does not present any new grounds suggesting that she can maintain a claim upon which relief can be granted. She also does not explain why an extension of time is warranted. She has had ample opportunity to perfect her causes

of action. Although Judge Giblin filed his *Report and Recommendation* months ago, Ms. Holt has yet to file specific, written objections to the magistrate's findings and recommendation as required by 28 U.S.C. § 636(b)(1). Therefore, the Court need not conduct a *de novo* review but instead considers whether Judge Giblin's report is clearly erroneous or contrary to law. *Id.*

Accordingly, having considered the *Report and Recommendation* and the record in this cause, the Court agrees with the magistrate's findings and conclusions. The Court, therefore, **ORDERS** that the Magistrate's *Report and Recommendation on Pending Dispositive Motions* [Clerk's doc. #33] is **ADOPTED**. The Court further **ORDERS** that Defendant, Beaumont Police Department's *Motion to Dismiss for Failure to State a Claim Pursuant to F.R.C.P. 12(b)(6)* [Clerk's doc. #21] is **GRANTED** and Plaintiff's causes of action filed against the Beaumont Police Department are **DISMISSED** with prejudice; Plaintiff's *Motion to File Default Judgment* [Clerk's doc. #26] is **DENIED** and the remainder of Ms. Holt's claims are **DISMISSED**, without prejudice, for failure to timely effectuate service under Federal Rule of Civil Procedure 4 and failure to prosecute under Federal Rule of Civil Procedure 41(b). All motions not addressed herein are denied as **MOOT** and this matter shall be closed.

SIGNED at Beaumont, Texas, this 5th day of January, 2006.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE